

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JOSE FIGUEROA,

Plaintiff,

-against-

153 EAST 33<sup>RD</sup> ST FAMILY LIMITED  
PARTNERSHIP, ALFREDO BATTAGLIA,  
LTF2 LLC and PETER MATHIAS,  
Defendants.

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ATTORNEY'S AFFIRMATION

Case No.: 18-cv-02621 (ER)

Stuart H. Finkelstein, an attorney duly admitted to practice in the Southern District Court of New York, affirms under penalties of perjury as follows:

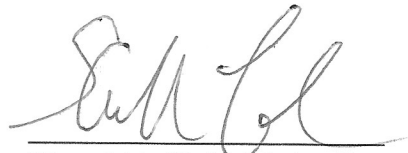
1. I am the attorney for Plaintiff in the above captioned action and submit this Affirmation pursuant to Docket Entry 60, filed February 12, 2019.
2. Your affiant never had any authority to dismiss this case with prejudice that would constitute an appropriate basis. It was for that very reason that I could not, and did not agree with defense counsel to dismiss the case with prejudice. In light of Mr. Figueroa not returning any of my phone calls in which I left voice mail messages, would I be able to continue litigating the case. I should have advised Judge Fox during our phone conference that I was unsuccessful in obtaining any communication with Mr. Figueroa. My last contact with Mr Figueroa was in the early part of January, 2019 wherein I left the last of my approximate six voice mail messages.
3. I have known Mr. Figueroa for over twenty years, having had the privilege and his trust in representing him in a significant personal injury matter, as well as presently representing him in a matter currently pending in Bronx Civil Court, Pro bono. I have also

represented a family member of his, and have also represented one of his friends.

5. In order to avoid Mr. Figueroa being subject to attorney fees, costs and the like, I thought it in his best interests to avoid having to pay monies out of his pocket even in the event the case was dismissed by the court for failure to prosecute or I had filed a motion to be relieved as counsel as it is my understanding that he would still be subject to attorney fees and costs in the happening of him not pursuing the case if the defendants were so disposed. In my last communication with him he had undergone major back surgery and was scheduled for additional surgery during the first quarter of this year.

6. No party to this action has been paid, or agreed to any compensation, consideration, monetary or otherwise, to settle this case.

Dated: February 14, 2019  
Syosset, New York

A handwritten signature in black ink, appearing to read 'Stuart H. Finkelstein', written over a horizontal line.

Stuart H. Finkelstein, Esq.  
Attorney for Plaintiff  
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